

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Jun 23, 2025**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

CAROLINE ANGULO, a single person; ERIC  
KELLER, a single person; EBEN NESJE, a  
single person; KIRK SUMMERS, a single  
person; CHRISTINE BASH, individually and  
as a personal representative of THE ESTATE  
OF STEVEN BASH; RAYMOND  
SUMERLIN, JR., and MARYANN  
SUMERLIN, a married couple; and MARTIN  
WHITNEY and SHERRYL WHITNEY, a  
married couple,  
Plaintiffs, individually and on  
behalf of others similarly situated,  
v.

PROVIDENCE HEALTH & SERVICES  
WASHINGTON, a non-profit Washington  
Corporation, also d/b/a/ PROVIDENCE ST.  
MARY MEDICAL CENTER; DR. JASON A.  
DREYER, DO, and JANE DOE DREYER,  
husband and wife and the marital community  
thereof; and DR. DANIEL ELSKENS DO and  
JANE DOE ELSKENS, husband and wife and

Nos. 4:25-CV-05029-SAB  
4:24-CV-05160-SAB  
4:25-CV-05025-SAB

**ORDER CONSOLIDATING  
SELLS, GOOLD, AND  
ANGULO, FOR THE  
PURPOSE OF  
CONSIDERING CLASS  
CERTIFICATION**

**ORDER CONSOLIDATING SELLs, GOOLD, AND ANGULO, FOR THE  
PURPOSE OF CONSIDERING CLASS CERTIFICATION ~ 1**

1 the marital community thereof.

2 Defendants.

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4 PHERN SELLS, a single person; DENNIS  
5 HIGGINS and TRACY HIGGINS, husband  
6 and wife; WILLIAM HAMBY and CYNDI  
7 HAMBY, husband and wife; and DANIEL  
8 WHEELER,

9 Plaintiffs,

10 v.

11 PROVIDENCE ST. JOSEPH HEALTH;  
12 PROVIDENCE HEALTH & SERVICES;  
13 PROVIDENCE HEALTH AND SERVICES  
14 — WASHINGTON d/b/a PROVIDENCE ST.  
15 MARY MEDICAL CENTER; and  
16 PROVIDENCE MEDICAL GROUP d/b/a  
17 PROVIDENCE MEDICAL GROUP  
18 SOUTHEAST WASHINGTON  
19 NEUROSURGERY, a/k/a PMG  
20 NEUROSCIENCE INSTITUTE, WALLA  
21 WALLA a/k/a NEUROSCIENCE  
22 INSTITUTE d/b/a PROVIDENCE; and JANE  
23 AND JOHN DOES 1–6,  
24 Defendants.

1 TRADEEN GOOLD; CAL ALVIN HARRIS  
2 and MIDGE HARRIS, husband and wife;  
3 CHRISTINA COLE and MARCUS COLE,  
4 wife and husband; JEFFERY NEHLS and  
5 MELISSA NEHLS, husband and wife;  
6 SANDEE HAHN and STEPHEN HAHN, wife  
7 and husband,

8 Plaintiffs,

9 v.

10 DR. JASON A. DREYER, DO, and LAURA  
11 DREYER, husband and wife and the marital  
12 community thereof; PROVIDENCE ST.  
13 JOSEPH HEALTH; PROVIDENCE HEALTH  
14 & SERVICES; PROVIDENCE HEALTH  
15 AND SERVICES — WASHINGTON d/b/a  
16 PROVIDENCE ST. MARY MEDICAL  
17 CENTER; and PROVIDENCE MEDICAL  
18 GROUP d/b/a PROVIDENCE MEDICAL  
19 GROUP SOUTHEAST WASHINGTON  
20 NEUROSURGERY, a/k/a PMG  
21 NEUROSCIENCE INSTITUTE, WALLA  
22 WALLA a/k/a NEUROSCIENCE  
23 INSTITUTE d/b/a PROVIDENCE; and JANE  
24 AND JOHN DOES 1–6,

25 Defendants.

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**ORDER CONSOLIDATING SELLS, GOOLD, AND ANGULO, FOR THE  
PURPOSE OF CONSIDERING CLASS CERTIFICATION ~ 3**

1 Before the Court are Defendant’s Motion to Dismiss or Stay, ECF No. 27, in  
2 *Sells et al v. Providence St. Joseph Health et al* [4:24-CV-05160-SAB]; and  
3 Defendant’s Motion to Dismiss, First to File, ECF No. 21, in *Goold et al v. Dreyer*  
4 *et al* [4:25-CV-05025-SAB]. The motions were considered without oral argument.

5 In *Sells et al v. Providence St. Joseph Health et al* [4:24-CV-05160-SAB],  
6 Plaintiffs are represented by William Gilbert, Ashley Richards, and Beth Bollinger.  
7 Defendants are represented by Jennifer Oetter, Amber Pearce, Andrew Gard, and  
8 Meryl Hulteng.

9 In *Goold et al v. Dreyer et al* [4:25-CV-05025-SAB], Plaintiffs are  
10 represented by Mr. Gilbert, Ms. Richards, and Ms. Bollinger. Defendant  
11 Providence is represented by Jennifer Oetter and Andrew Gard. Defendants Dreyer  
12 are represented by Jeffrey Galloway, Ryan Beaudoin, and Jon Burtard.

13 In *Angulo et al v. Providence Health & Services Washington et al* [4:25-CV-  
14 05029-SAB], Plaintiffs are represented by Mr. Gilbert, Ms. Richards, Ms.  
15 Bollinger, Peter Langrock, and Terrance Reed. Defendant Providence is  
16 represented by Jennifer Oetter, Kenneth Payson, Ross Siler, and Caleah Whitten.  
17 Defendants Dr. Dreyer and Jane Doe Dreyer are represented by Bryce Wilcox,  
18 James McPhee, Mr. Galloway, Mr. Beaudoin, and Steven Dixon. Defendant Dr.  
19 Elskens is represented by Ronald Van Wert and Stephen Lamberson.

20 The Court has considered the motions, briefs, and caselaw in *Sells* and  
21 *Goold*, as well as the related case *Angulo*. For docket management and judicial  
22 efficiency, it now consolidates *Sells*, *Goold*, and *Angulo*, **for the purpose of**  
23 **considering the class certification issue presented in *Angulo*.**

## 24 BACKGROUND

25 The *Angulo* case was filed in King County Superior Court on May 13, 2022.  
26 On June 30, 2022, the Defendants timely removed the matter to the U.S. District  
27 Court for the Western District of Washington and pursuant to the Class Action  
28 Fairness Act of 2005 (“CAFA”) based on diversity jurisdiction, 28 U.S.C. §

1 1332(d) and § 1453. On March 19, 2025, it was transferred to the U.S. District  
2 Court for the Eastern District of Washington, because of several related pending  
3 matters and in the interest of justice and judicial economy.

4 The *Sells* case was filed on December 4, 2024, in the U.S. District Court for  
5 the Eastern District of Washington and pursuant to 28 U.S.C. § 1332. The *Goold*  
6 case was filed on March 11, 2025, in the U.S. District Court for the Eastern District  
7 of Washington and pursuant to 28 U.S.C. § 1332.

8 Plaintiffs in all cases seek recovery on several claims, most of which match  
9 or mirror the claims in the related cases. These include claims for: medical  
10 negligence, in violation of Wash. Rev. Code § 7.70; lack of consent or informed  
11 consent to medical procedures; criminal profiteering, pursuant to Wash. Rev. Code  
12 §§ 9A.82.100 and 9A.82.080, with predicate acts, including for false health care  
13 claims, pursuant to Wash. Rev. Code §§ 48.80.030 and 9A.08.020, money  
14 laundering, pursuant to Wash. Rev. Code §§ 9A.83.020(1)(a)&(b), 9A.83.020(5),  
15 and 9A.08.020, and theft by deception, pursuant to Wash. Rev. Code §§  
16 9A.56.030, 9A.56.040, and 9A.08.020; violations of the Consumer Protection Act,  
17 Wash. Rev. Code § 19.86, for deceptive or unfair practices in engaging in their  
18 medical services; corporate and vicarious negligence; that Defendants deprived  
19 Plaintiffs of their opportunity to discover the factual bases for the causes in  
20 violation of the discovery rule; a breach of fiduciary duty, fraud, and/or  
21 misrepresentation; negligent infliction of emotional distress and outrage; loss of  
22 consortium; vicarious liability; unjust enrichment; disgorgement; and limited  
23 waiver of physician-patient privilege.

24 In *Angulo*, Plaintiffs further seek to certify two classes of plaintiffs,  
25 Providence Class and MultiCare Class:

26 **(1) Providence Class:** All surgical patients of the Doctors at  
27 Providence who were subject to the RVU compensation scheme in  
28 connection with their treatment.

**ORDER CONSOLIDATING SELLS, GOOLD, AND ANGULO, FOR THE  
PURPOSE OF CONSIDERING CLASS CERTIFICATION ~ 5**

1       **(2) MultiCare Class:** All surgical patients of Dr. Jason A. Dreyer, DO,  
2 while he was employed in Spokane, Washington, by MultiCare Health  
3 Systems, from May 3, 2019, through November 18, 2021.

4       For the Providence Class, Plaintiffs allege the doctors had roughly 1,750  
5 patients, which amounts to the same number of class members. For the MultiCare  
6 Class, Plaintiffs allege roughly 475 surgical patients for Dr. Jason Dreyer, and thus  
7 475 class members.

8       The allegations in these cases arise from care provided by Dr. Dreyer, Dr.  
9 Daniel Elskens, and Defendant Providence at its location at St. Mary Medical  
10 Center in Walla Walla, Washington, between 2013 and 2018. Plaintiffs allege  
11 Defendants breached duties owed by providing unnecessary or inadequate care,  
12 resulting in harm. The actions were allegedly driven by an incentive-based  
13 compensation scheme prioritizing volume of surgeries over care. These surgeries  
14 resulted in the individual harms suffered by each named plaintiff, in all three cases.

15       The issues came to a head in and relate to a March 17, 2022, settlement  
16 agreement in a *qui tam* False Claims Act action among Defendant Providence, the  
17 United States, and the State of Washington. Providence agreed to pay the  
18 government \$22,690,458, with \$10,459,388 earmarked as restitution, to resolve  
19 allegations that the hospital fraudulently billed federal and state health care  
20 programs for surgeries performed by Drs. Dreyer and Elskens at Providence St.  
21 Mary Medical Center. Both doctors resigned in the face of Washington  
22 Department of Health administrative investigations. But Dr. Dreyer started  
23 practicing again at MultiCare Health System in Spokane, Washington.<sup>1</sup>

24       In the settlement agreement, the parties stipulated that between July 1, 2013,  
25 and November 13, 2018, Providence submitted claims and accepted reimbursement  
26 from federal and state health care programs for neurosurgery and other services at  
27 \_\_\_\_\_

28 <sup>1</sup> MultiCare Health Systems is not a party in any of the matters here.

1 Providence St. Mary; that Providence employed Dr. Dreyer during that entire time  
2 period and Dr. Elskens between November 2015 and May 2017; that Providence  
3 paid the neurosurgeons in such a way as to encourage higher complexity surgeries  
4 resulting in higher compensation; that Providence received and noted concerns  
5 about the doctors' procedures and their medical necessity; that Dr. Elskens was  
6 placed on administrative leave in February 2017 and resigned in May 2017; that  
7 Dr. Dreyer was placed on administrative leave in May 2018 and resigned in  
8 November 2018; and that Providence did not report either doctor to the National  
9 Practitioner Data Bank or Department of Health.

10 Providence did not admit to liability in the settlement agreement, though the  
11 United States and State of Washington found they had claims against Providence  
12 for false claims and failure to take appropriate action with regards to the doctors'  
13 actions.

#### 14 **LEGAL STANDARD**

15 Fed. R. Civ. P. 42(a) provides:

16 (a) **Consolidation.** If actions before the court involve a common  
17 question of law or fact, the court may:

18 (2) consolidate the actions;  
19

20 A district court considering similar cases at once may also exercise its broad  
21 discretion to consolidate matters. *See Garity v. APWU Nat'l Labor Org.*, 828 F.3d  
22 848, 855–56 (9th Cir. 2016); *see also Investor's Rsch. Co. v. U.S. Dist. Ct. for*  
23 *Cent. Dist. of Cal.*, 877 F.2d 777, 777 (9th Cir. 1989).

#### 24 **DISCUSSION**

25 The Court finds consolidation appropriate for managing these three related  
26 matters and for the purposes of adjudicating the question of class certification. All  
27 three cases involve patients who allegedly suffered harm from surgeries performed  
28 and medical advice provided by Drs. Dreyer or Elskens, and that the doctors



1 conducted these procedures unnecessarily because Defendant Providence operated  
2 an incentive-based payment scheme. Further, the claims are nearly identical, or  
3 identical, and they all involve Washington State or common law issues. Any  
4 unique claims still relate to the same underlying facts and individual harms alleged.

5 In an exercise of its discretion, the Court finds consolidation will promote  
6 judicial economy by allowing the Court and parties to resolve the threshold  
7 question of class certification, a resolution which will potentially impact all three  
8 matters. *See Garity*, 828 F.3d at 855–56. Given that these cases share both  
9 common issue of law and fact, the Court consolidates them pursuant to Fed. R.  
10 Civ. P. 42(a). Following the resolution of class certification issue, the Court may  
11 reopen the other matters, if necessary.

12 Accordingly, **IT IS HEREBY ORDERED:**

13 1. *Sells et al v. Providence St. Joseph Health et al* [4:24-CV-05160-  
14 SAB]; *Goold et al v. Dreyer et al* [4:25-CV-05025-SAB]; and *Angulo et al v.*  
15 *Providence Health & Services Washington et al* [4:25-CV-05029-SAB], are  
16 **CONSOLIDATED, for the purpose of resolving the issue of class certification.**

17 2. The parties shall utilize case **No. 4:25-CV-05029-SAB** for any filings.

18 3. Defendant’s Motion to Dismiss or Stay, ECF No. 27, in *Sells et al v.*  
19 *Providence St. Joseph Health et al* [4:24-CV-05160-SAB], is **DENIED**.

20 a. Plaintiffs’ request to strike Defendants’ filing of Material Facts,  
21 noted in their Response at ECF No. 33, is **DENIED**.

22 4. Defendant’s Motion to Dismiss, First to File, ECF No. 21, in *Goold et*  
23 *al v. Dreyer et al* [4:25-CV-05025-SAB], is **DENIED**.

24 a. Plaintiffs’ request to strike Defendants’ filing of Material Facts,  
25 noted in their Response at ECF No. 25, is **DENIED**.

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**ORDER CONSOLIDATING SELLS, GOOLD, AND ANGULO, FOR THE  
PURPOSE OF CONSIDERING CLASS CERTIFICATION ~ 8**



1           5.       The Clerk of Court shall **ADMINISTRATIVELY CLOSE** *Sells et al*  
2 *v. Providence St. Joseph Health et al* [4:24-CV-05160-SAB] **AND** *Goold et al v.*  
3 *Dreyer et al* [4:25-CV-05025-SAB] until the issue of class certification is resolved.

4           a.       All deadlines and hearings in *Sells* and *Goold* are **STRICKEN**.

5           **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
6 this Order, provide copies to counsel, and administratively close *Sells et al v.*  
7 *Providence St. Joseph Health et al* [4:24-CV-05160-SAB] **AND** *Goold et al v.*  
8 *Dreyer et al* [4:25-CV-05025-SAB].

9           **DATED** this 23rd day of June 2025.



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A handwritten signature in green ink that reads "Stan Bastian". The signature is written in a cursive, flowing style.

Stan Bastian  
Chief United States District Judge